

Docket No.: 0230-0242PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Yukio KATO et al.

Application No.: 10/594,595

Confirmation No.: 5586

Filed: September 28, 2006

Art Unit: 1632

For: THERAPEUTIC AGENTS AND
THERAPEUTIC METHODS FOR TREATING
INJURED TISSUE

Examiner: S. L. Chen

LETTER REGARDING WRONG RESTRICTION GROUP EXAMINED

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Madam:

Applicants request a new first Office Action to be issued in connection with the above-identified application as the Examiner has examined the incorrect Restriction Group in the Office Action dated June 25, 2009.

In reply to the Restriction Requirement dated March 3, 2009, Applicants filed a response on May 4, 2009 and elected Group I (claims 1-7). Applicants realized a mistake had occurred and then filed a Supplemental Response on May 14, 2009 in which they clearly indicated that the Examiner was to disregard the election filed May 4, 2009 and requested that for the purpose of examination of the above-identified application that **Group II** (claims 8-15) be elected and examined.

The Transaction History available on PAIR indicates that **both** the original response and the Supplemental response were forwarded to the Examiner on May 28, 2009. The Examiner

issued the first Office Action on June 25, 2009 directed to Group I and not to Group II. A copy of the Transaction History is attached hereto.

Applicants received the Office Action and, upon its review, contacted Applicants' representative requesting that a replacement Office Action be issued. Applicants' representative telephoned the Examiner on July 14, 2009 to request that a substitute Office Action be issued. The Examiner's telephone message indicated that he would be out of the office until July 22, 2009.

Applicants' representative then telephoned the Examiner's supervisor, Peter Paras, and discussed the matter with him. Supervisor Paras agreed that a new Office Action would need to be issued in view of the fact that the Examiner had not yet begun work on the first Office Action when the Supplemental Response electing Group II was filed, as evidenced by the Transaction History indicating that the Examiner had not received any Applicant Response until May 28, 2009 and had then received both responses at the same time. Supervisor Paras requested that Applicants' representative telephone the Examiner and explain the situation after the Examiner returned from vacation.

On Thursday, July 23, 2009, Applicants' representative telephoned the Examiner, as requested, and explained that a new first Office Action was needed in view of the fact that the Examiner has examined the wrong restriction group; that is, had examined Group I instead of Group II. The Examiner indicated that he had not seen the Supplemental Response and requested that a reply to the issued Office Action be filed. Instead, Applicants' representative and the Examiner reached agreement that this formal letter would be filed which would "complete the record" and allow a replacement first Office Action examining the claims of Group II to be issued.

This letter is the formal request required by the Examiner. In view of the above, Applicants formally request that a new First Office Action be issued directed to the claims of Group II which were properly and timely elected in the Supplemental Response filed May 14, 2009.

Application No.: 10/594,595

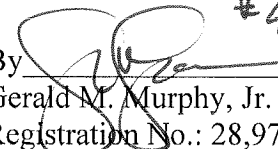
Docket No.: 0230-0242PUS1

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman, Registration No 47,604 at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: **July 23, 2009**

Respectfully submitted,

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Enclosure: Transaction History from PAIR for Application Serial No.:10/594,595



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Transaction History

Date	Transaction Description
06-25-2009	Electronic Review
06-25-2009	Email Notification
06-25-2009	Mail Non-Final Rejection
06-22-2009	Non-Final Rejection
11-20-2007	Information Disclosure Statement considered
09-28-2007	Information Disclosure Statement considered
09-28-2006	Information Disclosure Statement considered
05-28-2009	Date Forwarded to Examiner
05-14-2009	Supplemental Response
05-28-2009	Date Forwarded to Examiner
05-04-2009	Response to Election / Restriction Filed
05-04-2009	Request for Extension of Time - Granted
03-03-2009	Electronic Review
03-03-2009	Email Notification
03-03-2009	Mail Restriction Requirement
02-27-2009	Requirement for Restriction / Election
02-20-2009	Case Docketed to Examiner in GAU
10-17-2008	Email Notification
10-16-2008	PG-Pub Issue Notification
09-05-2008	IFW TSS Processing by Tech Center Complete
06-15-2008	Request for Foreign Priority (Priority Papers May Be Included)
11-20-2007	Reference capture on IDS
11-20-2007	Information Disclosure Statement (IDS) Filed
09-28-2007	Reference capture on IDS
09-28-2007	Information Disclosure Statement (IDS) Filed
09-28-2006	Reference capture on IDS
09-28-2006	Information Disclosure Statement (IDS) Filed
09-28-2006	Preliminary Amendment
08-29-2008	Case Docketed to Examiner in GAU
09-28-2006	Information Disclosure Statement (IDS) Filed
07-21-2008	Application Dispatched from OIPE
07-09-2008	Email Notification
07-09-2008	Email Notification
09-28-2006	371 Completion Date
07-08-2008	Sent to Classification Contractor
07-09-2008	Notice of DO/EQ Acceptance Mailed
07-09-2008	Filing Receipt
11-20-2007	Information Disclosure Statement (IDS) Filed
09-28-2007	Information Disclosure Statement (IDS) Filed
10-17-2006	Cleared by OIPE CSR
09-28-2006	Initial Exam Team nn

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